

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION – IN ADMIRALTY**

**Civil Action No.:** \_\_\_\_\_

|   |   |  |
|---|---|--|
| SHM SHV, LLC,                                   | ) |  |
|   | ) |  |
| Plaintiff,                                      | ) |  |
| v.  | ) |  |
|   | ) |  |
| S/V KELLY ALLEN, Hull Identification            | ) |  |
| Number XDYQ0151M80F, USCG                       | ) |  |
| Official No. 657833, her masts, sails,          | ) |  |
| rigging, engines, anchors, furniture,           | ) |  |
| equipment, appurtenances, etc., <i>in rem</i> , | ) |  |
| and ROBERT S. GRIFFITH II,                      | ) |  |
| <i>in personam</i> ,                            | ) |  |
|   | ) |  |
| Defendants.                                     | ) |  |
| _____   | ) |  |

**VERIFIED COMPLAINT**

NOW COMES Plaintiff, SHM SHV, LLC (“Plaintiff” or “SHM”) through undersigned counsel, and files this Verified Complaint against Defendants the S/V KELLY ALLEN, Hull Identification Number XDYQ0151M80F, USCG Official No. 657833, her masts, sails, rigging, engines, anchors, furniture, equipment, appurtenances, etc. (the “KELLY ALLEN”), *in rem*, and Robert S. Griffith II, *in personam*, for damages and maritime arrest, saying and alleging as follows:

1. This is a case of admiralty or maritime jurisdiction for enforcement of a maritime lien, as hereinafter more fully appears, and is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 U.S.C. §1333, brought pursuant to 46 U.S.C. §31341 *et seq.*, and Supplemental

Admiralty Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims.

2. Venue in this district is proper under Supplemental Admiralty Rule C(2)(c) and the general maritime law including 28 U.S.C. §1391(b)(2).

3. SHM is pursuing \$8,267.20 in damages, plus attorneys' fees, costs, and interest. The United States Coast Guard Abstract of Title for the KELLY ALLEN, attached hereto as Exhibit A, shows no other lienholders or mortgagees requiring notice of this action against the KELLY ALLEN under the United States District Court, Eastern District of North Carolina, Local Admiralty and Maritime Claims Rules of Practice and Procedure C.3(b).

4. At all times materially relevant to this action, SHM was and still is a Delaware limited liability company with its principal place of business in Dallas, TX, authorized to do business in North Carolina and doing business under the assumed named Safe Harbor South Harbor Village, including operating of a marina and providing marine services at or near 4909 Fish Factory Road, Southport, Brunswick County, North Carolina 28461, within the jurisdiction of this Court.

5. At all times materially relevant to this action, the KELLY ALLEN was and still is a vessel documented with the United States Coast Guard National Vessel Documentation Center, Official No. 657833, and was and is now located within the jurisdiction of this Honorable Court at 4909 Fish Factory Road, Southport, Brunswick County, North Carolina, 28461 (the "Marina").

6. The KELLY ALLEN is a Bangor Punta Marine (O'Day) fiberglass hulled sailboat built in 1980 in Fall River, MA, measuring approximately 37' in length, 11' 6" in beam, and having approximately 5' in draft and bearing Hull Identification Number XDYQ0151M80F and North Carolina registration number NC6108DY.

7. At all times materially relevant to this action, the KELLY ALLEN was and still is solely owned by Defendant Robert S. Griffith, II ("Griffith"), who, upon information and belief, resides at 310 E. Brown St, Southport, Brunswick County, North Carolina, 28641.

8. On or about April 1, 2020, Griffith and SHM entered into a one-year term Slip License Agreement for the dockage, use and enjoyment of vessel slip C-19 and its electrical appurtenances for the benefit of the KELLY ALLEN (the "SLA"); a true and correct copy of the SLA is attached hereto as Exhibit B and incorporated herein by reference.

9. The SLA requires monthly payments of \$370.00 plus monthly charges for metered electrical usage; Section 13 of the SLA requires adequate protection and indemnity insurance to be maintained for the KELLY ALLEN at all times; Section 24(g) of the SLA provides for the payment of attorney's fees and all costs incurred by SHM in enforcing or protecting SHM's rights under the SLA; and Section 16 permits SHM to terminate the SLA at any time by notice to Griffith when a breach occurs.

10. No payment under the SLA has been received by SHM between July 30, 2020 through and including the date of this filing, and adequate insurance was not

maintained (or not presented to SHM) on the KELLY ALLEN; accordingly, Defendants are in default of the SLA.

11. As of the date of this filing, the balance due and owing under the SLA is \$8,267.20 (inclusive of principal, interest, financing fees, and \$350 of preliminary attorney's fees incurred prior to June 24, 2020, but excluding all other attorney's fees) (the "Statement"); a true and correct copy of the Statement dated February 8, 2022 is attached hereto as Exhibit C.

12. The outstanding balance to date, excluding costs associated with this action, includes i.e.:

- a) principal owed: \$7,180.00;
- b) finance charges: \$572.08;
- c) metered electrical charges: \$165.12; and
- d) attorneys' fees: \$350.00.

13. Through correspondence including that dated January 29, 2021, SHM; provided notice to Defendants of the monies owed, demanded payment, informed Defendants of default under the SLA, and terminated the SLA between SHM and Defendants (the "Notice of Default"). A true and correct copy of the Notice of Default from January 29, 2021 is attached hereto as Exhibit D.

14. In accordance with the SLA, SHM issued a demand letter that was sent and received via certified mail to Griffith on January 25, 2022 which put Defendants

on notice of the outstanding balance due and included a copy of the January 2022 statement with a breakdown of the expenses incurred, demanded payment in accordance with the SLA, and provided notice that legal action including arrest and foreclosure may be commenced against the KELLY ALLEN pursuant to the SLA and applicable law (the “Demand”). A true and correct copy of the Demand from January 25, 2022 is attached hereto as Exhibit E.

15. The Notice of Default and Demand described hereinabove were given in a timely fashion and in accordance with the terms of the SLA.

16. Despite demand for payment and relocation of the vessel, the KELLY ALLEN remains at the Marina and Defendants remain in default of the SLA and owes SHM a balance of \$8,267.20 (inclusive of principal, interest, financing fees, and \$350 of preliminary attorney’s fees incurred prior to June 24, 2020, but excluding all other attorney’s fees) as described in the Statement.

NOW, WHEREFORE, SHM prays for the following relief:

1. That this Verified Complaint be deemed good and sufficient;
2. That process in due form of law according to the rules and practices of this Honorable Court in causes of admiralty and maritime jurisdiction may issue against the KELLY ALLEN, her masts, sails, rigging, engines, anchors, furniture, equipment, appurtenances, etc. *in rem*, by way of arrest pursuant to Supplemental Admiralty Rule C, and that all persons having or claiming any interest therein may

be cited and required to appear and answer under oath, all and singular the matters aforesaid;

3. That after due proceedings are had, that there be a judgment entered in favor of the Plaintiff, SHM SHV, LLC, and against Defendants the KELLY ALLEN, and her masts, sails, rigging, engines, anchors, furniture, equipment, appurtenances, etc. *in rem*, and Robert S. Griffith II, *in personam*, requiring Defendants to jointly and severally pay to SHM the aforesaid amounts due them, together with interest and financial fees thereon, and all other damages as may be proved at trial, with prejudgment interest, attorney's fees, and all costs of these proceedings; and

4. That this court grant SHM SHV, LLC such other and further relief as may be just and proper.

This the 11<sup>th</sup> day of March, 2022.

CRANFILL SUMNER LLP

BY: /s/ Jason R. Harris  
Jason R. Harris  
N.C. State Bar No. 27876  
Tanis Whittington  
N.C. State Bar No. 58140  
P.O. Box 1950 (28402)  
101 N. 3<sup>rd</sup> St., Suite 400  
Wilmington, NC 28401  
Phone: (910) 777-6000  
Fax: (910) 777-6111  
Email: [jharris@cshlaw.com](mailto:jharris@cshlaw.com)  
Email: [twhittington@cshlaw.com](mailto:twhittington@cshlaw.com)  
*Attorneys for Plaintiff SHM  
SHV, LLC*

VERIFICATION

State of NORTH CAROLINA

County of BRUNSWICK

MICHAEL BIANCHI, being first duly sworn, deposes and says that he is the General Manager of South Harbour Village Marina and Authorized Signatory for the Plaintiff, SHM SHV, LLC, in the foregoing action, that he knows the contents of the foregoing, that the same are true of his own knowledge, except for those matters stated on information and belief, and as to those matters, he believes them to be true.



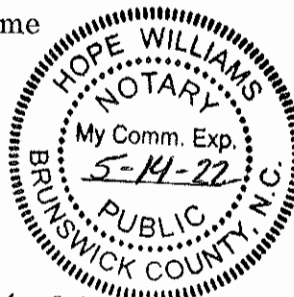
SHM SHV, LLC

by Michael Bianchi, as: General Manager of South Harbour Village Marina and Authorized Signatory for SHM SHV, LLC

SWORN TO and subscribed before me  
this 3 day of ~~February~~, 2022

MARCH 10

  
NOTARY PUBLIC



My Commission Expires 5-14-2022